

§ 233.25 Retrospective budgeting; computing the assistance payment after the initial one or two months.

The State plan shall provide:

(a) After the initial one or two payment months of assistance under § 233.24, the amount of each subsequent month's payment shall be computed retrospectively, i.e., shall be based on earned and unearned income received in the corresponding budget month.

(b) In these subsequent months, other factors of need which affect the amount of the assistance payment may also be based on circumstances in the corresponding budget month, or they may be based on circumstances in the payment month.

(c) For the first month in which retrospective budgeting is used, a State shall not consider income received by the recipient before the date of application. When a person reapplies during the same month in which a termination became effective, the State may consider income received before the date of application.

[44 FR 26083, May 4, 1979]

§ 233.26 Retrospective budgeting; determining eligibility after the initial one or two months.

(a) Under retrospective budgeting, there are three options for determining eligibility. The State plan shall specify that eligibility, following the initial one or two months under § 233.24, shall be determined by one of the following methods:

(1) A State may consider all factors, including income retrospectively, i.e., only from the budget month. For example, if a change in circumstances occurs which affects eligibility, e.g., deprivation ceases, the change may be reported at the end of the budget month and assistance shall be terminated for the corresponding payment month. Thus, even if the agency could have terminated assistance earlier than the corresponding payment month, it shall not do so under retrospective determination of eligibility.

(2) A State may consider all factors, including income, prospectively. For example, if deprivation ceases, and the family becomes ineligible, the agency shall immediately take steps to terminate assistance.

(3) A State may use a combination of the options in paragraphs (a) and (b) of this section by considering factors related to earned and unearned income retrospectively and all other factors prospectively. For example, if a change in income makes the family ineligible, the agency shall wait until the corresponding payment month to terminate assistance. On the other hand, if a change of circumstances other than income makes the family ineligible, the agency shall immediately take steps to terminate assistance.

[44 FR 26083, May 4, 1979; 44 FR 29065, May 18, 1979, as amended at 47 FR 47828, Oct. 28, 1982]

§ 233.27 Supplemental payments under retrospective budgeting.

(a) *General requirements.* A State plan which provides for payments between 25 and 45 days from the close of a budget month, shall provide for supplemental payments to eligible recipients who request them. A State plan which provides for payments within 25 days may provide for supplemental payments:

(1) The supplemental payment shall be paid for the month in which it was requested.

(2) The recipient family is eligible for a supplemental payment if its income for the month is less than 80 percent of the amount the State would pay for a similar family with no income. However, this percentage of the amount the State would pay for a similar family with no income may be set between 80 and 100 percent, as specified in the State plan. The supplemental payment equals the difference between the family's income in the payment month and that percentage.

(3) Supplemental payments shall be issued within 5 working days of request.

(b) *How income is treated.* For purposes of supplemental payments, income includes that month's assistance payment and any income received or expected to be received by the recipient, but does not include work-related expenses.

(1) The amount used for the assistance payment shall be the monthly assistance payment without regard to

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any recoupments made for prior overpayments or adjustments for prior underpayments.

(2) The agency may include as income cash in hand or available in bank accounts. It may also include as income any cash disregarded in determining need or the amount of the assistance payment, but not cash payments that are disregarded by § 233.20(a)(4)(ii), paragraphs (c) on relocation assistance, (d) on educational grants or loans and (g) on payments for certain services.

[44 FR 26083, May 4, 1979, as amended at 51 FR 9205, Mar. 18, 1986]

§ 233.28 Monthly reporting.

(a) State plans specifying retrospective budgeting shall require that recipients with earned income, other than income from self-employment, report that income to the agency monthly. The State may require recipients with unearned income, no income, or income from self-employment to report monthly. The agency shall provide a form for this purpose, which:

(1) Is written in clear simple language;

(2) Specifies the date by which the agency must receive the form and the consequences of a late or incomplete form, including whether the agency will delay or withhold payment if the form is not returned by the specified date;

(3) Identifies an individual or agency unit the recipient should contact to receive prompt answers to questions about information requested on the form, and provides a telephone number for this purpose;

(4) Includes a statement, to be signed by the recipient, that he or she understands that the information he or she provides may result in changes in assistance, including reduction or termination;

(5) Advises the recipient if supplemental payments are available and the proper procedures for initiating a request; and

(6) Advises the recipient of his or her right to a fair hearing on any decrease or termination of assistance or denial of a supplemental payment.

(b) The agency shall specify the date by which it must receive the monthly

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report. This date shall be at least 5 days from the end of the budget month and shall also allow the recipient at least 5 days to complete the report.

(c) The agency may consider a monthly report incomplete only if it is unsigned or omits information necessary to determine eligibility or compute the payment amount.

(d) The agency shall provide a stamped, self-addressed envelope for returning the monthly report.

(e) The agency shall make special provisions for persons who are illiterate or have other handicaps so that they cannot complete a monthly report form.

[44 FR 26083, May 4, 1979]

§ 233.29 How monthly reports are treated and what notices are required.

(a) *What happens if a completed monthly report is received on time.* When the agency receives a completed monthly report by the date specified in § 233.28 it shall process the payment. The agency shall notify the recipient of any changes from the prior payment and the basis for its determinations. This notice must meet the requirements of § 205.10(a)(4)(i)(B) of this chapter on adequate notice if the payment is being reduced or assistance is being terminated. This notice must be received by the recipient no later than his or her resulting payment or in lieu of the payment.

(b) *What happens if the completed monthly report is received before the extension deadline.* (1) If the completed monthly report is not received by the date specified in § 233.28, the agency shall send a notice to the recipient. This notice shall inform him or her that the monthly report is overdue or is not complete and that he or she has at least 10 additional days to file. It must inform the recipient that termination may result if that is the agency's policy, if the report is not filed within the extension period. This notice must reach the recipient at least 10 days before the expected payment. However, in States in which the date specified in § 233.28 is within 10 days of the expected payment date, the notice must reach the recipient on or before the expected payment date.